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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6396 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

THAKOR SAMJA SEVA MANDAL

Versus

STATE OF GUJARAT

Appearance:

MR MR SHAH for Petitioner

MS HANSA PUNANI, ld.AGP for Respondents

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 04/10/2001

ORAL JUDGEMENT

Shri Thakor Samaj Seva Mandli has filed this petition through its Manager/Sanchalak Shri Kesarsinh Parmar challenging the order dated 5.6.2000 at Annexure.D passed by the respondent no.1.

It is the case of the petitioner that the petitioner-Trust is running Baxi Panch Ashram Shala at village Nava Bhetal, Tal.Bhiloda since last many years and as per the recognition given by the State Government, 120 students can be admitted in the Baxi Panch Ashram Shala. In the year 1999, there were 130 students, out of which, 74 students were Boys and 56 students were Girls.

On 25.11.1998, a show cause notice came to be issued by the respondent no.2 to show cause as to why the recognition of the Ashram Shala should not be cancelled alleging inter alia on the ground that when the competent authority visited the Ashram Shala, only 14 students were present. There was no stock of food-grains for more than one month. The petitioner on 6.3.1999 replied the said show cause notice. It appears that the respondent no.2 thereafter sent a proposal to the respondent no.1 for cancellation of the recognition of the Ashram Shala. It appears that hearing was accorded to the petitioner on 25th May 1999 wherein the petitioner appeared and gave explanation in writing as well as orally also explained as to why only 28 students were present at the time of inspection on 13.11.1998. It was pointed out by the petitioner that when the Social Welfare Officer inspected the Ashram Shala on earlier occasions, i.e. 1.9.1998 and 28.7.1998, there were more than 90 students. It has been given out that the petitioner was given one more opportunity and an order dated 21st June 1999 was passed with a view to consider the working and administration of the Ashram Shala for three months. It appears that thereafter, the Ashram Shala was inspected by the respondent no.2 on 31st July 1999 and by letters dated 4th Oct.1999 and 11th Oct.1999 asked for certain further information with regard to the strength of the students duration as well as other particulars of the Ashram Shala from the petitioner, to which the petitioner replied. However, on 5.6.2000, an order came to be passed by the respondent no.1 for cancellation of the recognition of the Ashram Shala run by the petitioner relying upon the reports submitted by the respondent no.2 dated 7.2.2000. The petitioner has challenged the said impugned order of the respondents in this petition.

It is the grievance of the petitioner that the reports on which reliance is placed by the respondent no.1 in the impugned order has not been given to the petitioner and therefore, the impugned order is against the principles of natural justice. It was submitted that in the impugned order 5.6.2000 a specific reference is made to the reports dated 23.7.1999, 18.8.1999, 7.2.2000 and 13.4.2000 and the copies thereof were not given to the petitioner.

No affidavit-in-reply has been filed to controvert the averments made in the petition.

This Court in an identical situation, quashed and set aside the impugned order on the ground that the petitioner would be entitled to get the copy of the

documents on which reliance is placed. Non-supply of the copies of the reports and documents on which reliance is placed is in violation of the principles of natural justice. Under the circumstances, this Court set aside the impugned order. The said decisions are rendered in Special Civil Application No.2338 of 1996 decided on 8.5.1996 and Special Civil Application No. 2551 of 1996 decided on 10.7.1996 (Coram: Rajesh Balia, J.)

After having heard the learned Counsel appearing for the parties at length and after having gone through the aforesaid decisions rendered by this Court, in my opinion, the petitioner has made out a case and I am of the view that the petitioner is entitled to have the copies of the reports dated 23.7.1999, 18.8.1999, 7.2.2000 and 13.4.2000. In this view of the matter, in my opinion, the impugned order dated 5.6.2000 is in breach of the principles of natural justice and therefore, this ground alone is sufficient to vitiate the impugned order. This petition accordingly succeeds. The impugned order dated 5.6.2000 passed by the respondent no.1 is hereby quashed and set aside. The respondent no.1 is required to proceed afresh in accordance with law, if so advised after providing the documents to the petitioner. Rule is made absolute in above terms with no order as to costs.

4th Oct.2001 (K.R. Vyas, J.)

Sreeram.